

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

NOV 02 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DELVEN EARL RASBERRY,

Defendant - Appellant.

No. 06-10700

D.C. No. CR-05-00108-PMP

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Philip M. Pro, District Judge, Presiding

Argued and Submitted October 16, 2007
San Francisco, California

Before: BRUNETTI, W. FLETCHER, and CLIFTON, Circuit Judges.

Delven Earl Rasberry appeals the denial of his motion to suppress evidence of cocaine distribution discovered during a parole search of his home. He argues that his positive test for marijuana and prior convictions for drug-related offenses did not give the parole officer reasonable cause to conduct the search. We affirm.

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

A parolee's reasonable expectation of privacy under the Fourth Amendment is defined by the conditions of his parole. *See Samson v California*, 126 S. Ct. 2193, 2199 (2006). As a Nevada parolee, Rasberry was prohibited from possessing narcotics and was subject to search "upon reasonable cause as ascertained by [his] Parole Officer." Reasonable cause, as defined by Nevada courts, includes "reasonable grounds to believe a violation of a parole agreement has occurred." *Allan v. State*, 746 P.2d 138, 140 (Nev. 1987). Because Rasberry's positive drug screen for marijuana gave his parole officer a reasonable belief that he had violated the narcotics condition of his parole, the search of Rasberry's apartment violated no reasonable expectation of privacy.

AFFIRMED.